

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

JULIE RICKMAN, §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. 1:19-cv-546
§ (JURY)
AIR REPAIR, INC., dba §
AIR REPAIR PROS, and §
TODD ROHWER, INDIVIDUALLY, §
§
Defendants. §

PLAINTIFF'S ORIGINAL COMPLAINT

SUMMARY OF SUIT

1. Defendant Air Repair, Inc., dba Air Repair Pros (the "Company") provides HVAC installation, repairs and services.

2. Unfortunately, the Company did not pay its non-exempt employee, Plaintiff Julie Rickman (the "Plaintiff") one and one-half (1½) times her regular hourly rate for hours worked over forty (40) per workweek in violation of the Fair Labor Standards Act.

3. Defendant Todd Rohwer ("Rohwer") is the Company's president and owner. Reference to the Company and Rohwer is collectively to the "Defendants."

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 29 U.S.C. § 216(b) (2018) and 28 U.S.C. § 1331 (2019).

5. The Plaintiff brings this Complaint in the district in which the Company does business and where a substantial portion of the conduct charged herein occurred. As such, venue is proper in

this district pursuant to 28 U.S.C. § 1391(b) (2019).

THE PARTIES

6. The Plaintiff, a resident of Frisco, Texas, was employed by the Company within the meaning of the FLSA during the three (3) year period preceding the filing of this Complaint. In performing her duties for the Company, the Plaintiff engaged in commerce or in the production of goods for commerce.

7. The Company, an enterprise engaged in commerce, is a Texas corporation that has acted, directly or indirectly, in the interest of an employer with respect to the Plaintiff. The Company may be served with process by serving Rohwer, its registered agent, at 1647 Witt Road, Suite 201, Frisco, Texas 75034.

8. Rohwer has acted, directly or indirectly, in the interest of an employer with respect to the Plaintiff. Rohwer may be served with process at his place of business located at 1647 Witt Road, Suite 201, Frisco, Texas 75034 or at 3395 Eldorado Parkway, Little Elm, Texas 75068.

BACKGROUND

9. The Plaintiff began her employment with the Company as a receptionist/dispatcher in April of 2018. Although the Plaintiff typically worked far in excess of forty (40) hours each week, the Plaintiff was not compensated at one and one-half times her regular rate of pay for all hours worked over forty (40) hours each week. Rather, the Plaintiff was paid the same amount each pay period

regardless of how many hours she worked. As a non-exempt employee, the Plaintiff was entitled to be paid one and one-half (1½) times her regular rate for all hours worked in excess of forty (40) hours in a workweek. 29 U.S.C. § 207 (2019).

10. No exemption excuses the Company from paying the Plaintiff overtime compensation for all hours worked over forty (40) hours each work week. Nor has the Company made a good faith effort to comply with the FLSA. Instead, the Company knowingly, wilfully, or with reckless disregard carried out an illegal pattern or practice regarding unpaid overtime compensation with respect to the Plaintiff.

11. Rohwer, as the Company's president and owner, has a substantial financial interest in the Company and is directly involved in:

- a. the hiring and firing of its employees;
- b. its day-to-day operations as they relate to defining the terms of employment, workplace conditions, and the level of compensation to be received by its employees;
- c. its finances; and
- d. corporate decisions.

CAUSE OF ACTION

A. Unpaid Overtime Compensation

12. The Plaintiff regularly worked far in excess of forty (40) hours per week for which she was not compensated at one and one-half (1½) times her regular rate of pay.

13. As a non-exempt employee, the Plaintiff was entitled to be paid one and one-half (1½) times her regular hourly rate for all hours worked in excess of forty (40) hours in a workweek. 29 U.S.C. § 207(a) (2019). Accordingly, the Defendants' practice of failing to pay the Plaintiff overtime compensation on hours worked over forty (40) each work week was and is a clear violation of the FLSA.

14. No exemption excused the Defendants from paying the Plaintiff one and one-half (1½) times her regular hourly rate for hours worked over forty (40) hours. Nor did the Defendants make a good faith effort to comply with the FLSA. Instead, the Defendants knowingly, wilfully, or with reckless disregard carried out their illegal pattern or practice regarding overtime compensation with respect to the Plaintiff.

15. Accordingly, the Plaintiff is entitled to overtime pay in an amount which is one and one-half (1½) times her regular rate of pay.

16. In addition, the Plaintiff is entitled to an amount equal to all of her unpaid overtime wages as liquidated damages.

17. Finally, the Plaintiff is entitled to reasonable attorneys' fees and costs of this action. 29 U.S.C. § 216(b) (2019).

PRAYER

WHEREFORE, Plaintiff Julie Rickman requests that this Court award her judgment against Defendants Air Repair, Inc., dba Air Repair Pros, and Todd Rohwer, Individually, for:

- a. damages for the full amount of the Plaintiff's unpaid overtime compensation;
- b. an amount equal to the Plaintiff's unpaid overtime compensation as liquidated damages;
- c. reasonable attorneys' fees, costs and expenses of this action;
- d. pre-judgment interest and post-judgment interest at the highest rates allowable by law; and
- e. such other and further relief as may be allowed by law.

Respectfully submitted,

/S/ Mark Siurek
Mark Siurek
TBA# 18447900
Fed ID# 9417
3334 Richmond Ave, Suite 100
Houston, Texas 77098
713-522-0066 (telephone)
713-522-9977 (fax)
msiurek@warrensiurek.com

ATTORNEY-IN-CHARGE FOR PLAINTIFF

OF COUNSEL:

WARREN & SIUREK, L.L.P.
Patricia Haylon
TBA# 09281925
Fed ID# 13941
3334 Richmond Ave, Suite 100
Houston, Texas 77098
713-522-0066 (telephone)
713-522-9977 (fax)
thaylon@warrensiurek.com